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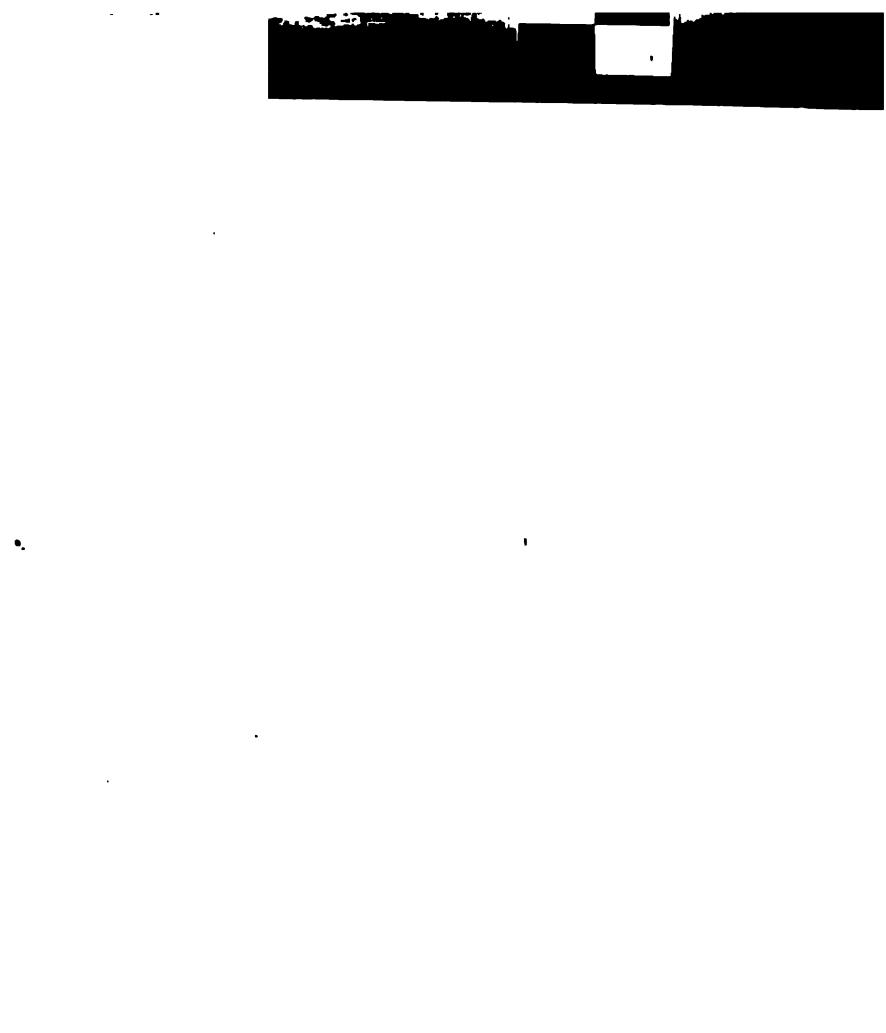
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MARYLAND AS A PROPRIETARY PROVINCE



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MARYLAND

AS A

PROPRIETARY PROVINCE

BY (N'

NEWTON D. MERENESS

SOMETIME UNIVERSITY FELLOW IN HISTORY IN COLUMBIA UNIVERSITY

The English subjects, who left their native country to settle in the wilderness of America, had the privileges of other Englishmen. They knew their value, and were desirous of having them perpetuated to their posterity.

- DULANY.

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life. Had the province been left to itself, the low social pressure, and the consequent want of a political awakening would, during that century, have prevented more than a weak opposition to the claims of the lord proprietor; but, even from the very beginning, what was wanting in the social and political conditions was, in effect, in no small measure furnished by disturbances originating in external sources or conditions.

The earliest of such disturbances was a continuance of trouble that arose even before the charter was granted. It was early in October, 1629, that the first Lord Baltimore arrived in Virginia to make choice of land with a view of obtaining another grant from the crown. Upon this very first occasion, regardless of the facts that he had but a few years before resigned with honor so high an office as that of secretary of state, and that he had been a member of the provisional council for the government of Virginia, he was received with coldness and the spirit of contempt by the governor and council of the province. Such treatment was provoked both by Lord Baltimore's Catholic faith and by the unwillingness of the Virginians to have a new province carved out of the territory which under the charter of 1609 had been a part of the domain of the London Company. As if, therefore, with the hope of driving away this unwelcome intruder, the governor and council, with no authority for so doing, tendered to him the oath of supremacy and allegiance.1 But Lord Baltimore was not one of those men that could be so easily turned from his purpose. After the object of his visit had been accomplished, he returned to England; and although, owing to continued opposition from the Virginians, he did not obtain a grant of the land lying south of the James River, - his first choice, - after

¹ Maryland Archives, Proceedings of the Council, 1636 to 1667, pp. 16, 17.

a lapse of over two years there was granted to his son, Cecilius, by the charter of Maryland, the land lying north Lof the Potomac,—his second choice.

Yet within a few months after Cecilius Calvert, the second Lord Baltimore, had obtained the charter, the crown was presented with a petition against it from the governor, council, and planters of Virginia. petitioners complained that by the new grant they were cut off from some of their places of trade. They contended that contrary to the supposition on which the grant had been made, part of the land had been inhabited by Virginians. They pretended that the grant of the charter of Maryland was a violation of the charter granted to the London Company in the year 1609, on the ground that the territory of the newly erected province was within the limits of what had been granted by that company's charter. But that charter had been resumed by the crown in the year 1624, ever since which Virginia had been a royal province; and in support of their claim that a part of Maryland had been inhabited by Virginians nothing has been found except that Henry Fleet had been trading with the Indians, and William Claiborne was about this time establishing a trading post on Kent Island. fore, as there was so little ground for the petition, after it had received a formal hearing by the privy council, it was not only decided that the charter of Maryland should stand, but the governor and council of Virginia were given a royal order to treat Lord Baltimore with the courtesy and respect that were due to a person of his rank, and also to give the colonists of Maryland such lawful assistance as might conduce to the safety and advantage of both Maryland and Virginia.1

¹ Proceedings of the Council, 1636 to 1667, pp. 18-22; Sainsbury, Calendar of State Papers, 1574 to 1660.

But notwithstanding this order, serious trouble from Virginia still awaited Lord Baltimore and his officers. Among those Virginians who followed the first Lord Baltimore to England in order to prevent, if possible, his obtaining the charter for which he was seeking was William Claiborne, a member of the council and secretary of state for Virginia. This man was one of those who had tendered the oaths to Lord Baltimore. He was a younger son of an ancient English family, and in the year 1621, after having been commissioned surveyor for the Virginia colony, had sailed thither to make his fortune. Since his arrival he had prospered and proved himself to be a man of marked ability. In the year 1627 and, again, in 1628 he had been granted the governor's license to make an expedition into the Chesapeake Bay and other parts of Virginia for the purpose of exploration and trade with the Indians. In the year 1629 he had been made a captain and put in command of an expedition that was sent against the Indians for the purpose of punishing them for hostilities recently committed.1

One year later he was in England opposing Lord Baltimore; and while there he first induced a firm of London merchants, Cloberry and Company, to engage him as their agent, or special partner, to carry on a trade for furs with the Indians to the north of Virginia. Then in May, 1631, he obtained from King Charles a license for himself and his colony to trade with Nova Scotia and New England; and less than a year later he was given permission to trade with the Dutch plantations at Manhattan, by a license which was granted him by the Governor of Virginia.

After such extensive plans had been formed and the

¹ Proceedings of the Council, 1636 to 1667, pp. 24-39; Browne, "Maryland, the History of a Palatinate," Ch. III.

required license had been obtained, the next step was to establish a trading-post at some convenient place. Accordingly, an island in the Chesapeake Bay, near the mouth of the Severn, was chosen for this purpose and named Kent. Friendly negotiations for the possession of the island having been made with the Indians, the necessary buildings were erected and a number of men stationed therein.¹

But on this occasion, from the very beginning, Claiborne's business did not prosper. First, disagreements arose between him and his company—the merchants complaining of the small quantities of peltry which they received, and Claiborne complaining both as to the quantity and the quality of the wares which the merchants sent out for the trade. At one time the London supplies were stopped for more than a year, and as Claiborne did not himself reside on the island, the men at the post were nearly starved and for a few years in constant dread of being cut off by the Indians.

Such was their condition when, in the year 1633-34, the first Maryland colonists, under command of Governor Calvert, the lord proprietor's brother, arrived within the province. Shortly before their arrival, Claiborne had been told that Kent Island was within the province of Maryland, and that the men at his trading-post must therefore relinquish all dependence on the government of Virginia. But as Claiborne had been the active opponent of the lord proprietor, as he was still a member of the council of Virginia, as the freemen at his post had been allowed one member in the Virginia house of burgesses, and as the reply to the petition of the Virginians against the Maryland charter had not yet been received, he was by no means ready to comply with the demand.

¹ It is probable that Claiborne had thus taken possession of the island ten months before the Maryland charter had passed the great seal.

About the time the Ark and the Dove, the vessels bearing Governor Calvert and his party, entered the Chesapeake, he laid the matter before the governor and council of Virginia for direction; and in the reply, given March 14, 1633-34, he was told that there was no more reason for giving up that island than there was for giving up any other part of Virginia.¹

For a time the peace was not disturbed. For a month or two after the landing of the Maryland colonists the relations between them and the Indians were most friendly. But, although the answer to the petition of the Virginians had by that time been received, there then appeared a change on the part of the Indians; and while seeking the cause of this, Claiborne was accused by the Indian interpreter of having told the natives that the men of the new colony were Spaniards and enemies of the English.2 Later, on the testimony of the Indians, there seemed to be some ground for believing this accusation to have been false. But such ground did not appear until after an account of that accusation had been given to the lord proprietor. As a consequence, the lord proprietor issued an instruction which directed that if Claiborne still refused to submit and the Maryland force was thought to be strong enough, he and his settlement on Kent Island should be taken and he be kept a prisoner until further orders concerning him.3

This instruction bears the date of September 4, 1634. Very soon after it had been received by Governor Calvert, it must have been acted upon. For only a few months later a Maryland force captured a pinnace belonging to Claiborne and his company because it was trading in

¹ Proceedings of the Council, 1667 to 1687–88, p. 164.

² *Ibid.*, pp. 165, 166, 167.

^{*} *Ibid.*, p. 168.

At first Evelin denied the right of Maryland to have jurisdiction over the island, denied that Lord Baltimore had the exclusive right of trade within the borders of his province, and cast reflections on Governor Calvert, saying that while in school he had been but a dunce and a blockhead. In this way he soon won the confidence of the islanders and induced Claiborne to deliver to him the control of the settlement. But before departing for England, Claiborne must have become suspicious of Evelin's intentions. For, having called a meeting of the freemen and servants, he tried in their presence to obtain from Evelin a £3000 bond not to hand over the island to the Marylanders.

This Evelin refused to give; and after Claiborne's departure and his own adjustment of a few matters, he began to study the Maryland charter, with the result that he decided that Kent Island could not stand against the government of Maryland. He obtained from Governor Calvert a commission appointing him commander of the island, and then tried to persuade those under him to give their willing submission to the government of Maryland. But finding himself unable to accomplish his end by such means, he prevailed upon Governor Calvert to proceed — without waiting for further orders from England — to the reduction of the island by force. Accordingly, in December, 1637, about forty armed men landed on the island, and, the surprise being complete, the reduction was easy. However, Evelin in no way had the interest of the people at heart, being far more interested in obtaining a large manor as the reward for his services; and his treatment of the friends of Claiborne was so severe that they would not endure it, but rose in rebellion and rescued those arrested for debt. This made necessary a second reduction of the island, which was ac-

had not been kept. Finally he threatened to leave the province if he were not permitted to enjoy what had been promised before his departure from England.¹

A little later came on the war in the mother country between the king and the Parliament. It could hardly have been otherwise than that such a war should alarm the lord proprietor and incite such Maryland colonists as Cornwallis, his followers, and others sympathizing with the Parliament to more vigorous and even violent action against the government. By the year 1643 the situation had become so critical that Governor Calvert sailed for England in order to confer with the lord proprietor.

Cornwallis did not retain his seat in the council during the governor's absence; yet Giles Brent, the governor's substitute, appointed him captain general, and in that capacity he concluded a peace with the Nanticoke Indians and led an expedition against the troublesome Susquehannas. But toward the close of the year in which he performed these services there arrived from London a trader — Richard Ingle by name — of the piratical type. While this base representative of a worthy cause was loading his ship in the port at St. Mary's, he was arrested on the charge of having spoken there treasonable words against the king. Cornwallis seems to have thought this a fit opportunity for striking another blow in behalf of liberty and of showing his affection for the cause of Parliament. Very soon after Ingle's arrest, therefore, he, with one of the council and one or two others, defied the authorities, first by causing the sheriff to release Ingle, and then by helping him to get safe out of the For this offence Cornwallis was brought to trial and fined one thousand pounds of tobacco.2 Moreover, the

¹ Calvert Papers, No. 1, p. 172, et seq.

²Proceedings of the Council, 1636 to 1667, p. 167.

feeling against him was so strong that he thought best to leave the province and very soon went as one of Ingle's passengers to England, where, in trouble, he passed the remainder of his days.

His departure greatly diminished the military strength of the colony. The Susquehannas remained hostile. The government was weak, Governor Calvert being still absent, and the people were divided into factions.

With affairs in this condition Claiborne felt that there was an opportunity for him. He therefore made secret visits to Kent Island and spared no means, however unscrupulous, to incite a rebellion. For a time he found but few followers. Governor Calvert returned to Maryland in September, sent a small reconnoitring expedition to Kent Island, caused action to be taken for securing protection from the Indians, and sought in every way to restore strength to the government.¹

But before he had made much headway Inglealso returned from England with a body of armed men with whose aid he easily got possession of the seat of government. seizure enabled Claiborne to get control of Kent Island. For nearly two years the insurrection continued. The lord proprietor was doubtful as to the recovery of his But - although a remnant of the council province. elected Hill, a Virginian, governor - Ingle did not attempt to provide the province with any government. He cared for little except pillage; and in that he and his party indulged without restraint. It was only natural, therefore, that the colonists should sooner or later feel that they had had enough of him. And when Governor Calvert, who had gone to Virginia for assistance, returned with some hired soldiers from that province

¹ Proceedings of the Council, 1636 to 1667, p. 161.

and others from Maryland, he easily regained possession first of St. Mary's and later of Kent Island.

Yet both Claiborne and Ingle escaped, and the former had not long to wait before still another opportunity was afforded him for the revenge which he so strongly craved. At the outbreak of the civil war in England the lord proprietor was a friend of the king; but after he learned of the obstinacy of the king and saw the course affairs were likely to take, he became more and more careful not to offend the Parliament. Although Governor Calvert, just before his death in June, 1647, had appointed Thomas Greene, a Catholic, as his successor, the lord proprietor removed Greene and intrusted the controlling power in the government of his province to such Protestants as were victorious in the mother country. It is true that while the new governor, William Stone, was absent in Virginia, Thomas Greene, whom he had appointed as his substitute, proclaimed Charles II as the rightful heir to his father's dominions; 1 but Stone returned soon after, and it was thought no harm would come from Greene's act. The first occasion of the trouble in which Maryland was so soon to be involved arose, not out of that act, but from the attitude which the Virginia Assembly had assumed.

By the year 1642 a Puritan settlement in Virginia had become large enough for Massachusetts to send thither three ministers as missionaries.² About the time of their arrival, the Virginia Assembly passed an act requiring all ministers to conform to the Church of England and directing the governor and council to compel all non-conformists, upon notice, to leave the province "with all

¹ Proceedings of the Council, 1636 to 1667, pp. 243, 244.

² Winthrop, "History of New England," Vol. II, pp. 78, 95 old ed., or 93, 115 new ed.

INTRODUCTION

missioners entered upon their duties in Virginia. After having reduced that province to submission, they appointed Bennett governor and Claiborne secretary of state, and then proceeded to Maryland, where they arrived the last of March, 1652. Their first step there was to remove Governor Stone. And they reinstated him only after they had completely wiped out the lord proprietor's authority by naming the members of the council, by providing that the inhabitants should engage themselves to be true and faithful to the commonwealth of England, and by requiring that all legal processes should run in the name of the Keepers of the Liberties of England.

Upon learning what the commissioners had done, the lord proprietor at once began to seek a legal remedy. But before he had accomplished anything along that line, all his efforts were needed to give the authorities in England the most weighty reasons for not uniting Virginia and Maryland under one government.2 The year after he had presented those reasons, which well answered their purpose, Cromwell dissolved Parliament and caused himself to be declared protector with all the authority of a Then, just as the protector acted on the theory that he was the successor to the crown, so the lord proprietor — his charter still remaining intact — not unnaturally felt that there was no reason why he should not hold his province under the protector as he had done under the late king. Accordingly, he instructed Governor Stone to proceed on that basis.³ Stone obeyed. The protector undoubtedly favored this course of the lord proprietor; and Bennett and Claiborne, the commissioners of the late Parliament, had no lawful authority to interfere.

But the Puritans who, after having retired from Vir-

¹ Proceedings of the Council, 1636 to 1667, p. 271.

² Ibid., p. 280.

⁸ *Ibid.*, p. 300.

ginia had settled in Maryland, gave trouble to the gov-In 1650 they had refused to send delegates to the Assembly, alleging as their reason for the refusal, that they thought that under the Puritan Parliament the lord proprietor's charter was endangered. Further trouble arose when they refused to obey the governor's order to march against the Indians. Nearly 150 of them had signed petitions to the commissioners complaining of the governor. So, very soon after he had begun to administer the government according to the instructions he had received from the lord proprietor, those commissioners again came over from Virginia, and, regardless of their want of authority, proceeded a second time to reduce the province to submission. After Governor Stone had rejected their offers for a peaceful settlement and threatened them with violence, a small force of Puritans under the command of Bennett marched to St. Mary's, and the submission which they demanded was then obtained from the governor without the shedding of blood. The next step of the commissioners was to hand over the government to Captain William Fuller and nine others who were to serve as commissioners, or a council of state, under the lord protector — Bennett and Claiborne directing that they should proceed as nearly as might be according to the laws of England, and that Catholics should not be permitted to vote at an election of delegates to serve in the legislative Assembly.2

Governor Stone's account of these proceedings of Bennett and Claiborne drew from the lord proprietor a remonstrance to the protector, the effect of which was that the latter wrote a letter to Bennett commanding

¹ Proceedings and Acts of the General Assembly, 1637–38 to 1664, pp. 327, 328.

² Proceedings of the Council, 1636 to 1667, p. 311 ct seq.

that he and the other Virginians should give the Marylanders no further trouble. But without waiting for this letter, the lord proprietor rebuked Stone for submitting with so little resistance, and directed him to resume the office, or else — if he were afraid to do so suffer Captain Barber to be named as his successor. In pursuance of this direction Stone recovered possession of the records, and after this act had aroused the hostility of the Puritans he prepared for an attack upon their settlements. He soon had a force of about 130 men, and with it set out for the Severn. But when the conflict had been joined, Stone and his men found that they had to contend against Commissioner Fuller with about 175 men, who fired on their front, and also against the men of a merchant ship from London and a trading craft from New England, who fired on their rear. The result was that Stone was quickly defeated with heavy loss and that he surrendered upon promise of quarter. But as Fuller's Puritan honor did not require the keeping of that promise, a court-martial was held, and Stone and nine others were condemned to death. Four of the condemned were then shot down; and the lives of Stone and the other four were spared only after the intercession of women and soldiers.1

For more than a year the Puritan conquerors used their victory in such a manner as could not fail to reflect dishonor upon their names. But in the meantime the lord proprietor was not idle in England. On the contrary, he was busy urging the home government to hear and decide his case. After he had been kept waiting until the latter part of the year 1656, a decision in his favor was rendered. The following year articles of agreement between him and Richard Bennett were passed, by which the govern-

¹ Hammond, "Leah and Rachel; or the Two Fruitful Sisters. Virginia and Maryland," etc.

customs during the period of royal government caused the proprietor to meet with stronger opposition to what he claimed as his territorial rights; and this very opposition was a leading force in animating the strengthened political life and inspiring it to resist and to attack the government with such effect that the people of Maryland were at last permitted to enjoy the most of their rights as British subjects, regardless of all powers granted by the charter to the lord proprietor. ·

PART I TERRITORIAL AND SOCIAL RELATIONS

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CHAPTER I

LAND AND THE LAND OFFICE

HAD the military features of the old system of land tenure been preserved at the time of the founding of Maryland, the administration of the land office might have been the controlling force in the entire proprietary system; but, as it was, the military element in the feudal system had disappeared, and the only variety of tenure in Maryland was free and common socage, the obligations of which were fealty and rent, and its liability, escheat. Primogeniture took no strong root in the province. The attempts of priests to secure vast tracts of land for the church were thwarted by the introduction, at the instance of the lord proprietor, of the principle of the English statute of mortmain.

Nevertheless, the system was essentially unlike anything in use in modern times. As in all mediæval fiefs, both ownership of the soil and jurisdiction in everything pertaining to the territory were originally vested in the lord proprietor. With that ownership and that jurisdiction went extensive rights and privileges; and not only did those rights and privileges begin to suffer curtailment long before the final overthrow of the proprietary system,—thereby weakening that system at a vital point,—but by his effort to preserve them the lord proprietor provoked the opposition to more vigorous attacks on his governmental rights. A study of the land system, or of Maryland as a

such courts were held, there remains no evidence except the records of a court-baron held on St. Gabriel's Manor in the year 1656, and the records of a few sessions of both court-baron and court-leet held on St. Clement's Manor between the years 1659–72.¹ The records of the latter manor show that it had its steward, constable, and bailiff, and that a jury of twelve men, after hearing the charges or complaints, made its presentments, often fixing the fines, and occasionally referring the matter to the governor of the province. If the fine imposed by the jury was thought to be too excessive, it might be revised by affeerors sworn for that purpose.

Only in the grants of the first three manors was any portion of the land set apart as demesne land, that is, land which was not to be granted out in tenancy nor in any way severed or aliened from the said manor. The grant of a manor, like that of a freehold, subjected the grantee to the payment to the proprietor of the annual rent, and the fine for every alienation.

In 1665 the proprietor issued instructions directing that in every county at least two manors, containing not less than six thousand acres each, be surveyed and set apart for his private use.² Each of these proprietary manors was placed in charge of a steward, who leased it in parcels to tenants usually for three lives, or for a long term of years, at a rent seldom exceeding ten shillings per hundred acres. Owing to failure to preserve the bounds of them, these manors much dwindled in size or, in some cases, entirely vanished; while such portions of them as were preserved suffered from shameful neglect by poorly paid and incompetent stewards. As a consequence, the bounds

¹ Bozman, II, p. 581; Mayer, "Ground Rents in Maryland," pp. 151-157.

² Kilty, pp. 95-98.

proprietary land — the lord's demesne — was soon to disappear, and that the proprietor's right to escheat was to be lost. The manorial system for the large tenants had long since been abandoned. Governor Eden had conceded that the land office was public in nature with respect to the custody of the records. The question of public or private control in acquiring title was, therefore, about the only one yet remaining to be solved.

ment available from so large an income might, in the hands of an administrator like the first Lord Baltimore, have been equal to all the opposition which arose out of the proprietor's territorial relations; but in the hands of the degenerate Frederick, who was more interested in the revenue than in the government, such was not the case.

with the lower house by which it should be required only where the grant had been made within a certain fixed number of years; and that a law on the basis of the compromise be then passed. It is not improbable that such a compromise, as well as other similar ones, was prevented only by the many controversies and the final overthrow of the proprietary government that so soon followed.

¹ Proprietary Papers.

the trade so as to advance the price, the quality of the Maryland tobacco remained unimproved. An act of assembly passed in the year 1721 against trash and for limiting the time of shipping could not have had much effect; for in the year 1730 the governor said, "Trash is the greatest cancer to our staple." There was such delay in preparing it for market that it lost much of its scent, freshness, and weight. Then, too, the common means of transporting the crop from the place of growth to the port of shipment was by the slow and laborious rolling of hogsheads. Justly, therefore, the merchants complained of the slavery imposed on their sailors by being "obliged to roll it from far to the water side." Further, in the year 1726, the governor, while speaking of the complaints of the merchants, said: "They observe that their ships lie here subject for many months to the injury of the worm, their sailors undergo such fatigue from the excess of heat and labor, that if not lessened in number they are at least abated in their ability to work the ships home, and that their ships arrive on the English coast in a stormy and dangerous season. If these inconveniences attend them in their shipping, they of course entail others Leaky ships and bad weather must damage our tobacco, want of able hands endanger the loss of it; and although it arrives in safety, yet it comes to a late market, which is generally a bad one."2

But although the tobacco industry remained in such a languishing condition, the situation, in one respect, had changed from what it had been before the Revolution of 1689. The upper, and not the lower, house was now on the defensive. The small planters and the lower house had become eager for laws designed to raise the price of tobacco. In 1726 the governor received petitions from

¹ L. H. J., May 21, 1730.

² Ibid., October 10, 1726.

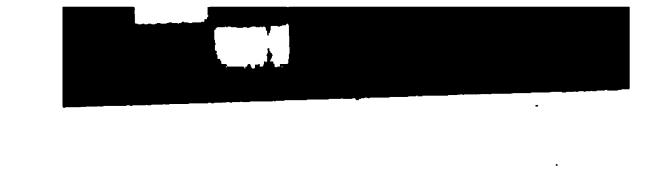
"If the difference we have mentioned arose from any difference of soil or climate, it would, perhaps, be in vain to attempt any regulation, or to hope that any that could be made would prove effectual; but that is so far from being the case that we have really the advantage both in soil and climate, and the remedy of all the difficulties under which we labor is within our reach.

"Our unhappy situation arises from this, that our people are under no kind of restraint, and the generality of them are unwilling to be under any which may have the least appearance of lessening the quantity of tobacco they make; under which general denomination all manner of trash, though unfit for anything but manure, is included, and so intermixed with what is really merchantable as to render the whole of little value; and in many instances has been so far from clearing the proprietors anything near what it cost them, that it has brought them in debt, and given Maryland tobacco in general a very bad character at all the European markets."

The representation next accounted for the failure of all past attempts to remedy the evil, and then concluded:—

"Sometimes a short crop occasioned by the unseasonableness of the weather, or other accidents, has occasioned the
rise of tobacco, which occasioned too many to think that
not only a providential but the only remedy that could be
reasonably hoped or expected; which notion, however
wild and extravagant, has contributed a good deal to fix
an aversion in the generality of the common people, and,
indeed, in too many of the representatives to any regulation at all. But now that the difficulties under which the
country labors are increased, and that every individual
person is sensible of them, and that those that have given
themselves the trouble of inquiring into the success of the
Virginia law are convinced of the necessity of some such

facilities for intercourse had been provided, the extremes of social classes had been far extended, and a large part of the educated class was arousing and directing the opposition of the ignorant commonalty against a small body of office-holders and society leaders that were closely united by the ties of kinship.



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PART II

GOVERNMENT



representatives of the people, from the year 1650, the laws of the province forbade the levying of any subsidy, aid, customs, tax, or imposition upon the freemen of Maryland until after their consent in the Assembly had been first obtained. Furthermore, from that same year the laws of the province provided that in case the lord proprietor or the governor should at any time make war outside of the limits of the province without having first obtained the consent and approbation of the General Assembly, then the freemen of the province should in no way be obliged or compelled against their consent to assist with their persons or estates in the prosecution of such a war. Finally, martial law was not to be at any time exercised within the province except in camp or garrison. 1 About the only modification that was later made in these important restrictions was that which allowed the governor and council, in the interval between sessions of the Assembly, to levy a sum not exceeding fifty thousand pounds of tobacco in any one year.

From the restoration of the proprietary government, in 1658, until the Revolution of 1689 the war power of the lord proprietor and governor was probably stronger than at any other time. Yet during that period the hostility from the Indians and from all other enemies from without caused so little alarm that no important precedents with respect to carrying on war were then established. After the establishment of the royal government the province was for a long time so little disturbed by enemies from without that little further was done toward defining the war powers of the government and the people until the third intercolonial war.

At the beginning of that war the Assembly, in response

¹ Proceedings and Acts of the General Assembly, 1637-38 to 1664, p. 302.

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Gazette article, signed by Thomas Johnson, Samuel Chase, and William Paca, in which these gentlemen contended that the ultimate authority was to be found, not in the king, but in the freemen of Maryland, who were to pronounce final judgment upon any great question in such successive elections of delegates as should follow a reasonable number of dissolutions of the Assembly. It is not improbable that the proclamation, had the proprietary government continued a few years longer, would have fallen before this view as to the ultimate source of authority; but, as it was, discontent was in a measure temporarily pacified by the revival of the old inspection act, without the table of fees, and then the Revolution soon followed.

of linen manufactured within the county. They let contracts for the keeping of ferries and the erection and repair of county buildings. They, in answer to petition from the vestry and church wardens, levied a tax, not exceeding ten pounds of tobacco per poll, upon the taxable inhabitants of the parish. They, by act of assembly of the year 1704, were authorized to levy such taxes as were necessary to defray "the several and respective county charges."

In interpreting the above words of the act of 1704, a dispute arose as to the extent of power conferred by it. The court of Prince George's County, late in the year 1747, passed an order for levying one hundred thousand pounds of tobacco with which to repair the courthouse. The cry at once arose that if the execution of such an order was to be permitted, there might soon be taxation without representation. It was contended in several articles published in the Maryland Gazette that it was not the intention of the act to authorize a county court to levy taxes other than for small charges. The basis of this contention was found in English custom, precedent established by the several county courts, the act of assembly that limited the parochial tax to ten pounds of tobacco per poll, and the limitation of the jurisdiction of county courts in civil cases. The result was that less than one year after the order of the Prince George's County court was passed, the General Assembly, by passing a supplementary act to the act of 1704, declared that the original act should not be construed to give the county justices power to levy taxes for defraying other than the "ordinary, usual, and necessary charges annually arising." At the same time that body much more definitely limited

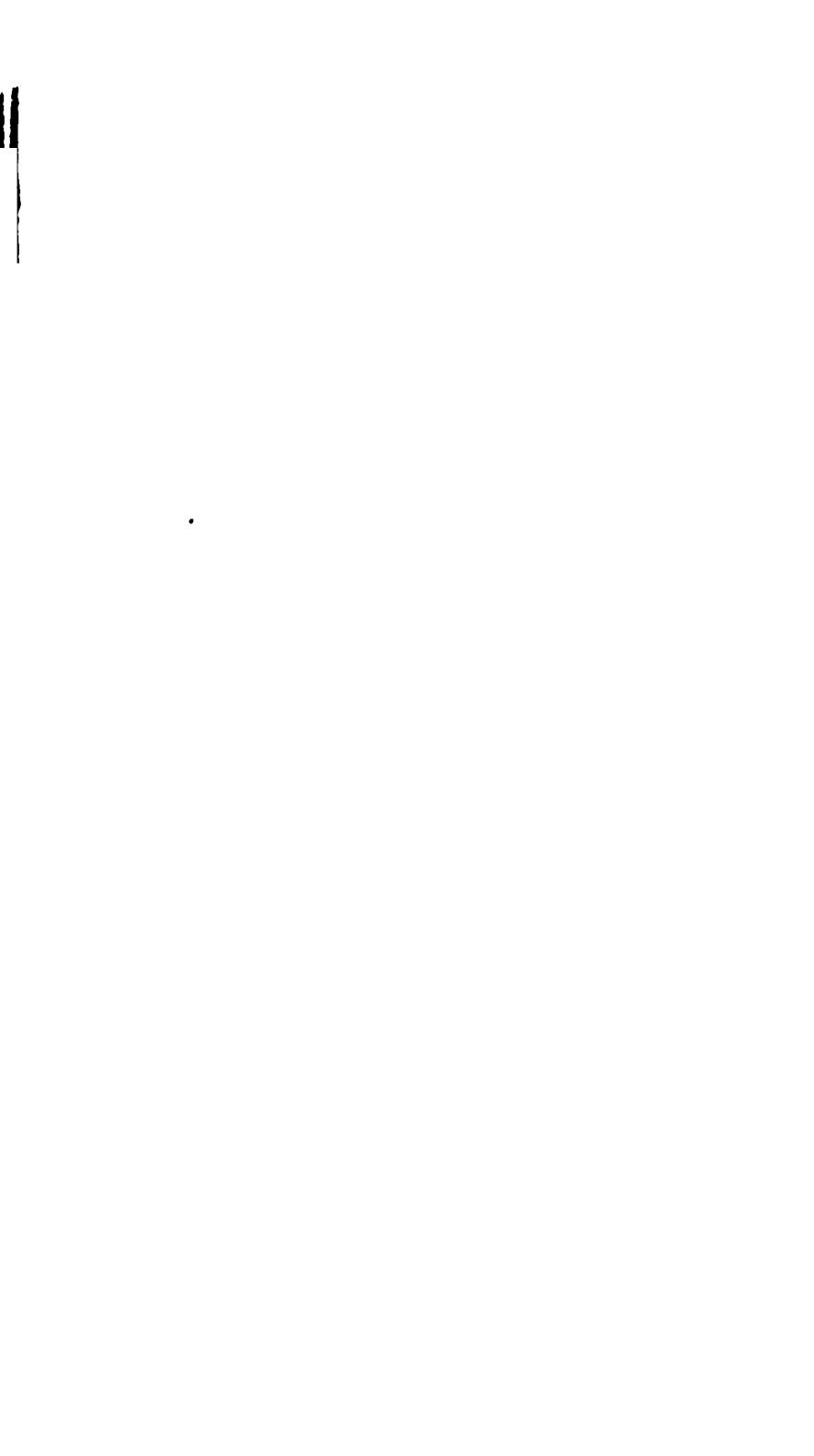
¹ Maryland Gazette, January 20, February 10, March 16, 23, April 13, 20, 27, May 4, 11, and June 4, 1748.

randing of the first col one Lewis, a Catholic, a Protestant book an ministers; and for thi. ernor and put under bor Again, in the year 1642 \ from the chapel at St. books, on the ground th and its contents. seems had enjoyed the Assembly with a compli redress, and that body fo ordered him to return t quish all title to them a of five hundred pounds of of the first minister that

More serious trouble be was near. The governm by Catholics, and the passed. The consequence war broke out in the mot

¹ Johnson ' -

union was held at the capital of Maryland. During the War of 1812, when the national capital was in the possession of the enemy, and when a part of New England was preparing to go out of the union, Francis Scot Key, a poet and eminent jurist, reared among the beautiful hills of Frederick County, Maryland, gave to his country that thrilling national hymn, — always a power for national unity, - "The Star-Spangled Banner." Finally, when Missouri was ready for admission into the union, and the excited abolitionists — with more good intentions than sound statesmanship, or ability to interpret the powers of congress - contended that she should be admitted with restrictions, the brilliant Pinckney, trained in the old school of Maryland statesmen, demonstrated in terms unmistakably clear that in the case in hand congress had only the power to admit into an equal union of commonwealths equally sovereign; and once more the union was left unimpaired.



together for the framing of laws; neither will it be fit that so great a number of people should immediately, on such emergent occasion, be called together, We, therefore, for the better government of so great a province, do will and ordain, and by these presents, for us, our heirs and successors, do grant unto the said now baron of Baltimore, and to his heirs, that the aforesaid now baron of Baltimore, and his heirs, by themselves, or by their magistrates and officers, thereunto duly to be constituted as aforesaid, may, and can make and constitute fit and wholesome ordinances from time to time, to be kept and observed within the province aforesaid, as well for the conservation of the peace, as for the better government of the people inhabiting therein, and publicly to notify the same to all persons whom the same in any wise do or may affect. Which ordinances We will to be inviolably observed within the said province, under the pains to be expressed in the same. So that the said ordinances be consonant to reason, and be not repugnant nor contrary, but (so far as conveniently may be done) agreeable to the laws, statutes, or rights of our kingdom of England: and so that the same ordinances do not, in any sort, extend to oblige, bind, charge, or take away the right or interest of any person or persons, of, or in member, life, freehold, goods or chattels.

IX. Furthermore, that the new colony may more happily increase by a multitude of people resorting thither, and at the same time may be more firmly secured from the incursions of savages, or of other enemies, pirates, and ravagers: We, therefore, for us, our heirs and successors, do by these presents give and grant power, license, and liberty, to all the liege-men and subjects, present and future, of us, our heirs and successors, except such to whom it shall be expressly forbidden, to transport themselves and their families to the said province, with fitting vessels, and suitable provisions, and therein to settle, dwell, and inhabit; and to build and fortify castles, forts, and other places of strength, at the appointment of the aforesaid now baron of Baltimore, and his heirs, for the public and their own defence; the statute of fugitives, or any other what-

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